

2/27/73

PROGRESS REPORT

Implementation of Executive Order 11652
on Classification, Declassification and Safeguarding
National Security Information

INTRODUCTION

This Progress Report is intended to evaluate progress achieved by the Interagency Classification Review Committee (ICRC) in monitoring implementation of Executive Order 11652, since it became effective on June 1, 1972. Although this Committee believes there is substantial basis for optimism regarding the success of the program to date, the real test of its success will require a considerably longer time span. By this the Committee does not intend to suggest it will ignore areas where immediate improvement can be achieved, but rather to point out that time is required to carry out changes as extensive as those directed by President Nixon's Order.

During its first six months, the ICRC has emphasized the development of sound procedures for dealing with security classification problems and the establishment of a viable reporting system for evaluating departmental classification programs. We believe the Executive Order and implementing National Security Council Directive provide a solid framework upon which to build.

Specifically, the ICRC has focused its attention upon reduction in Government officials with classification authority, review and approval of departmental implementing regulations, establishment of a quarterly reporting system, implementation of the data index requirement, and education of Federal employees on changes adopted by the new Order. In the pages which follow, we have detailed the Committee's actions in each of these areas with emphasis on continuing problems and proposed solutions.

I.

The Role of the Interagency Classification
Review Committee

--ICRC is the first White House level group with overall responsibility for the security classification program.

The establishment of the Interagency Classification Review Committee, which is responsible for "overseeing compliance with and implementation of the Order and programs established thereunder by each Department," is one of the important innovations of Executive Order 11652. The ICRC is required to meet no less frequently than monthly and is specifically directed to develop means to (a) prevent overclassification, (b) ensure prompt declassification in accord with the provisions of the Order, (c) facilitate access to declassified material, and (d) eliminate unauthorized disclosure of classified information. In addition, the Committee is authorized to consider and take action on complaints from persons within or without the government with respect to the general administration of the Order including appeals from denials of declassification requests by Departmental Committees or the Archivist.

Ambassador John S. D. Eisenhower was appointed by President Nixon in May, 1972 as Chairman of the Committee. Its members also include the Legal Adviser of the State Department, General Counsel of the Defense Department, the Deputy Attorney General, the Assistant General Manager for Administration of the Atomic Energy Commission, General Counsel of the Central Intelligence Agency, a member of the National Security Council staff and the Archivist of the United States.

Ambassador Eisenhower designated David R. Young of the National Security Council staff as Executive Director. In addition, a full time staff assistant to the Chairman has been appointed.

The Committee has met regularly since its establishment to discuss matters of common concern. It has begun to adopt uniform policies with regard to implementation of the Order and Directive and to review steps taken by departments in carrying them out. In addition, the Committee has received three appeals from denials of

declassification requests by Departmental Committees. On the basis of its first decision, the Top Secret Gaither Report of November, 1957 was declassified and released to the public.

II.

Reduction of Officials
With Authority to Classify

--64% reduction in all authorized classifiers
(exclusive of CIA) - Top Secret, Secret and
Confidential - from 49,614 to 17,976.

--69% reduction in authorized Top Secret
classifiers (exclusive of CIA)

Since June 1, 1972 the number of officials with authority to classify in the Federal Government has been reduced 64% from 49,614 to 17,976 (CIA has reduced total classifiers by 20%). The number of officials with Top Secret authority (and accordingly with authority to exempt from the General Declassification Schedule) has been reduced 69% from 3,634 to 1,110 (CIA has reduced Top Secret classifiers by 77%). A breakdown by departments is attached at Appendix A.

Further reductions are anticipated as the ICRC's evaluation of departmental classification requirements continues. The ICRC is very much concerned that the number of officials with Top Secret classifying authority be kept to the absolute minimum in order to avoid excessive exemption of classified material from automatic declassification schedules. At the Committee's request all of the major departments were asked to review their authorized Top Secret classifiers to determine whether additional reductions could be achieved. Significant additional reductions in subsequent reports have been recorded by the State Department, the Agency for International Development, and the General Services Administration.

Other departments where additional reductions appear appropriate have been asked to re-evaluate the number of officials granted classification authority to determine whether further reductions can be realized. The ICRC also anticipates utilizing the data index (see Section VIII, infra) to review other areas of possible reduction.

The ICRC is concerned lest there be extensive proliferation of classification authority on the basis of classification guidelines. Such guides are used by the Atomic Energy Commission, the Defense Department, the Central Intelligence Agency and other agencies,

particularly in connection with defense contract work. In the Defense Department any individual is authorized to classify on the basis of an authorized classification guide. Such guides are utilized in major weapons programs or other areas. By contrast, in AEC only authorized persons can classify pursuant to a classification guide. The Defense Department is weighing whether it should follow the approach adopted by AEC. Consideration is also being given to a recommendation by the ICRC that the Office of Management and Budget make classification review (as reflected in authorized guides) a part of program cost evaluation. The cost associated with industry classification may justify such action.

True

III.

Establishing Individual Accountability for Classification Actions

--Current lists of authorized classifiers by name and position are maintained by all departments and submitted to the ICRC on a quarterly basis.

The reduction in authorized classifiers reflected in the previous discussion involves more than simply a victory of numbers. In the Committee's view the single most important achievement of Executive Order 11652 is the principle of individual accountability it establishes.

The Order provides that, "Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributable to him." This provision is given teeth by requiring each department to maintain and submit to the ICRC on a quarterly basis a current list by name and title of those officials designated in writing to have classification authority. Moreover, every classified document is required to carry the identity of the official authorizing its classification.

The record lists referred to are currently being maintained. Because of the number of individuals involved and the rapid personnel turnover, the Defense Department maintains its list by title and organization. Accordingly, position rather than name is reflected on its classified documents. The Defense Department is giving consideration to the establishment of a notification procedure through its personnel officers, advising incoming and outgoing personnel of their current classification authority.

In order to emphasize the individual responsibility of each classifier, the Chairman of the ICRC proposes to address a personal letter to each of the individuals authorized to classify Top Secret, outlining the important provisions of the Order and Directive.

Instances of improper classification are being reported to the individuals responsible when they are discovered. When coupled with adequate departmental inspection programs, the Committee's ability to hold an individual responsible will be an effective deterrent to classification abuse.

IV.

Approval of Departmental
Regulations

--The ICRC has reviewed and approved the implementing regulations of all 34 departments affected by the Order.

--All departments whose regulations have been approved have published the portions affecting the general public in the Federal Register.

The ICRC has reviewed and approved all departmental regulations which are required to be adopted implementing the Order and Directive. The 34 departments or agencies involved are those having authority to originate classified documents under the new Order or having previously originated classified documents under Executive Order 10501, as amended. No regulations were required from the United States Small Business Administration or the Subversive Activities Control Board because neither had ever exercised its classification authority.

The above departments are further required upon approval of such regulations to publish in the Federal Register (and ultimately in the Code of Federal Regulations) those portions which affect the general public. As a minimum the ICRC has required publication of those sections dealing with (1) persons with authority to classify (if appropriate); (2) the Departmental Review Committee; (3) mandatory review procedures and (4) access for historical researchers.

Appropriate portions of 31 of the 34 approved regulations have appeared in the Federal Register prior to this date. The publication requirement was waived in the case of the Tennessee Valley Authority because all documents classified prior to June 1, 1972 were declassified and the TVA no longer has authority to originate classified documents. (The documents declassified were World War II protection plans for 28 of the TVA's major hydroelectric and steam generating plants.)